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PTO/SB/61 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee



Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.



A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Arnold S. Weintraub  
Signature

March 9 2005  
Date

Arnold S. Weintraub  
Typed or printed name

25523  
Registration Number, if applicable

32000 Northwestern Hwy, Suite 240  
Address

(248) 865-9430  
Telephone Number

Farmington Hills, MI 48334  
Address

Enclosure ☒ Fee Payment (petition fee/issue fee)

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☒ postcard

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:



deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

3/16/05  
Date

Rachel M. Snyder  
Signature

Rachel M. Snyder

Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

  
Signature

March 16, 2005  
Date

Arnold S. Weintraub

Typed or printed name

25523

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)



**IN THE UNITED STATES PATENT OFFICE**

Applicant: John A. Lopes  
Serial No: Applied For  
Filing Date: Herewith  
Title: **CONCENTRATED SANITIZING  
COMPOSITIONS FOR CLEANING FOOD  
AND FOOD CONTACT SURFACES**  
Our File: LOP-100-A-1

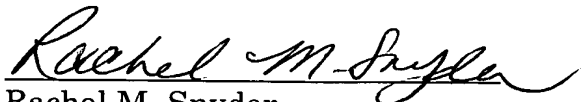
**CERTIFICATE OF MAILING AND COVER LETTER**

Attention: Office of Petitions  
**Mail Stop Petition**  
Hon. Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Date of Deposit: March 16, 2005**

Sir:

Transmitted herewith is a (1) Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a); (2) Declarations for: Arnold S. Weintraub, Janet Graham and Rachel Snyder; (3) Check in the amount of \$1,750.00 covering issue fee and petition fee; (4) Certificate of Mailing and cover letter; and (5) a stamped postcard, deposited with the United States Postal Service under 37 C.F.R. 1.8 on the date indicated above and addressed to Mail Stop Application/Fee, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. Please charge any additional fees or credit overpayment to Deposit Account No. 50-2815.

  
Rachel M. Snyder



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,902	09/09/2003	John A. Lopes	LOP-100-A-1	5664

7590 01/31/2005

Arnold S. Weintraub  
The Weintraub Group  
Suite 240  
32000 Northwestern Highway  
Farmington Hills, MI 48334

EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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10/657902

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
- ☐ A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.
- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required, by 37 CFR 1.18(d) is \$ \_\_\_\_\_.
- ☒ The issue fee and publication fee, if applicable, have not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: \_\_\_\_\_

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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## Attachment to Notice of Abandonment

For questions concerning the notice contact  
**Office of Patent Publication**

**Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:

<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### Respond to the Notice of Abandonment by one of the following:

1. **Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing; 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

2. **Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

3. **Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John A. Lopes

Serial Number: 10 / 657,902

Filing Date: July 18, 2001

Group Art Unit: 1751

Examiner: Necholus Ogden

Title: **CONCENTRATED SANITIZING COMPOSITIONS FOR  
CLEANING FOOD AND FOOD CONTACT SURFACES**

Atty. Docket No.: LOP-100-A-1

**DECLARATION OF JANET GRAHAM**

Janet Graham, being duly sworn, states as follows:

1. I presently work part time as a bookkeeper for two law firms: (a) Nedelman Pawlak P.L.L.C., and the Weintraub Group P.L.C., each law firm having an address of 32000 Northwestern Highway, Farmington Hills, MI 48334. Typically, I work on Tuesdays and Thursdays.
2. As understood, The Weintraub Group, P.L.C. practice involves intellectual property, including filing and prosecuting patent applications with the United States Patent and Trademark Office. The applications are assigned certain client-matter numbers to identify the client work being performed.

3. As understood, in the course of performing this patent related work, the Weintraub Group will ask clients to submit monies in advance of their disbursement to draftspersons, the PTO, etc.
4. When client monies are received, I credit them to an account having the proper client-matter number.
5. As to client-matter number LOP-100-A-1, and prior to December 8, 2004, Mr. Lopes had submitted monies to be credited against work being done or to be performed for this file. I inadvertently and without any deceptive intent entered these monies into the computer account system maintained at this office incorrectly and credited the monies to another account having a different client-matter number.
6. I was not in the office on December 8, 2004.
7. Sometime after Wednesday, December 8, 2004, Mr. Arnold S. Weintraub, in doing an account reconciliation, asked me to check whether the client had submitted the necessary fees for LOP-100-A-1. At that time, I discovered that no monies were entered for LOP-100-A-1 and that the monies sent from the client for LOP-100-A-1 were entered incorrectly into a different client-matter account.
8. I have now corrected the computer accounts to reflect the remittance of client monies for LOP-100-A-1.

9. The account balance on December 8, 2004 should have indicated that the account for LOP-100-A-1 had received sufficient funds from the client to pay the fees.

Declarant Further Sayeth Naught,

The undersigned declares that the above statements made of her own knowledge are true, and that the statements made on information and belief are believed to be true; and that these above statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: *march 15*, 2005

*Janet Graham*

Janet Graham



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John A. Lopes

Serial Number: 10 / 657,902

Filing Date: July 18, 2001

Group Art Unit: 1751

Examiner: Necholus Ogden

Title: **CONCENTRATED SANITIZING COMPOSITIONS FOR  
CLEANING FOOD AND FOOD CONTACT SURFACES**

Atty. Docket No.: LOP-100-A-1

**DECLARATION OF RACHEL SNYDER**

Rachel Snyder, being duly sworn, states as follows:

1. I am a secretary to Mr. Arnold S. Weintraub, the principal attorney of The Weintraub Group, P.L.C.
2. The Weintraub Group, P.L.C. has a practice of not advancing out-of-pocket expenses, including statutory patent fees, in pending matters when such fees become due at the Patent Office. A client is advised that monies are due in advance and that no action will be taken unless the monies are received in advance.
3. When the time comes to respond to a communication from the Patent Office requiring a payment, I look into the client account and determine if the requisite monies have been received from the client. If they have not been received I do not pay the monies.

4. On September 23, 2004, I prepared for Mr. Weintraub a letter to Mr. Lopes advising that (a) a Notice of Allowance was received, (b) a response was due December 8, 2004, (c) certain fees were due, and (d) The Weintraub Group would not pay these fees unless received in advance from Mr. Lopes. See Exhibit A, attached hereto.

5. When the time came to complete a response to the Notice of Allowance, I checked the account system and found that there were no monies for client account, LOP-100-A-1.

6. On Wednesday, December 8, 2004, Mr. Weintraub was out of the office and thus I could not advise him, or request instructions, as to what should be done since there appeared to be no money in the client account for LOP-100-A-1 for paying certain issue fees.

7. Further, on Wednesday, December 8, 2004, Ms. Janet Graham, the bookkeeper for The Weintraub Group, was also out of the Office and, thus, I was unable to verify the situation with respect to LOP-100-A-1 and ask Ms. Graham to verify that the requisite monies had in fact been received but were incorrectly credited.

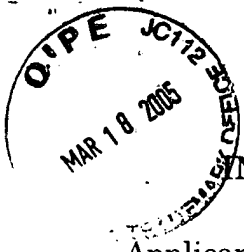
Declarant Further Sayeth Naught,

The undersigned declares that the above statements made of her own knowledge are true, and that the statements made on information and belief are believed to be true; and that these above statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: *March 8*, 2005

*Rachel M. Snyder*

Rachel M. Snyder



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John A. Lopes

Serial Number: 10 / 657,902

Filing Date: July 18, 2001

Group Art Unit: 1751

Examiner: Necholus Ogden

Title: **CONCENTRATED SANITIZING COMPOSITIONS FOR  
CLEANING FOOD AND FOOD CONTACT SURFACES**

Atty. Docket No.: LOP-100-A-1

**DECLARATION OF ARNOLD S. WEINTRAUB**

Arnold S. Weintraub, being duly sworn, states as follows:

1. I am the principal attorney of record on this case and with The Weintraub Group, PLC.
2. I was appointed by John A. Lopes to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith.
3. The Weintraub Group, PLC has a practice of not advancing, out of pocket, statutory patent fees in pending matters when such fees become due at the Patent Office. A client is advised that monies are due and that no action will be taken unless the monies are received in advance.

4. When client monies are received, a bookkeeper (Ms. Janet Graham) credits the monies to the client in an account book.
5. Ms. Graham works part-time and has a work schedule that includes most Tuesdays and Thursdays.
6. When the time comes to respond to a communication from the Patent Office, requiring payment of patent fees, my Secretary, Ms. Rachel Snyder reviews the client account to determine if the requisite monies have been received from the client. If they have not, Ms. Snyder advises me as to that fact.
7. A "Notice of Allowance and Fee(s) Due" was received from the Patent Office, which Notice was mailed September 8, 2004 and required a response no later than Wednesday, December 8, 2004.
8. I advised Mr. Lopes in my letter of September 23, 2004 that (a) the Notice of Allowance was received, (b) a response was due December 8, 2004, (c) certain fees were due, and (d) The Weintraub Group could not pay these fee unless received in advance from Mr. Lopes. See Exhibit A, attached hereto.
9. As understood, Ms. Graham received the requisite fees from Mr. Lopes for this case, which is identified by my docket number LOP-100-A-1, but she incorrectly credited the monies to another account having a different client-matter number. See the Graham Declaration, attached hereto.

10. Further, and as understood, when the time came for Ms. Snyder to complete a response to the Notice of Allowance, Ms. Snyder found that there were no monies credited to this client account, LOP-100-A-1.

11. On Wednesday, December 8, 2004, I was out of the office. Ms. Snyder did not advise me of her belief that there was apparently no money in the client account for LOP-100-A-1 for paying certain issue fees. See the Snyder Declaration, attached hereto.

12. Further, as understood, on Wednesday, December 8, 2004, the bookkeeper Ms. Graham was also out of the Office and Ms. Snyder was unable to verify the situation with respect to LOP-100-A-1 and that the requisite monies had in fact been received but were incorrectly credited. See the Snyder and Graham Declarations, attached hereto.

13. The above referenced application was, therefore abandoned on December 8, 2004 for failure to respond, based on the accounting system incorrectly showing that there was a lack of sufficient funds in the account for LOP-100-A-1 to cover the costs of responding to the Notice.

14. The "apparent" lack of funds within the account for file LOP-100-A-1 was not discovered by me until just recently when I asked Ms. Graham to do an account reconciliation.



15. The account balance on December 8, 2004 should have indicated that the account for LOP-100-A-1 had received sufficient funds from the client to pay the fees.

16. The account error was not discovered until the above listed application's abandonment.

17. This Declaration and accompanying Declarations of Ms. Graham, Ms. Snyder and attached material are being filed expeditiously after the accounting discrepancy was found.

#### DECLARATION

The undersigned declares that the above statements made of his own knowledge are true, and that the statements made on information and belief are believed to be true; and that these above statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Declarant Further Sayeth Naught,

Dated: *March 16*, 2005

The Weintraub Group, PLC  
32000 Northwestern Highway, Suite 240  
Farmington Hills, MI 48334

Enclosures: as indicated

Arnold S. Weintraub  
Attorney for Applicant  
Registration No. 25523  
(248) 865 - 9430